

REMARKS

Claims 1-64 are pending. Claims 1-42 stand rejected.

Claims 43-64 have been canceled without prejudice or disclaimer of the subject matter recited therein.

Claim 1 has been amended. Claim 32 has been amended with a non-narrowing amendment.

Claim Rejections - 35 U.S.C. § 103

Claims 1-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,782,369 issued to Carrott (referred to herein as “*Carrott*”). Applicants respectfully traverse the rejection.

The Examiner relies upon *Carrott*, Official Notice of various matters, and *In re Venner*, 262 F. 2d 91, 120 USPQ 193 (CCPA 1958) to establish a *prima facie* case of obviousness. Applicants respectfully submit that the teachings and suggestions of *Carrott* lacks multiple features of the claimed invention, *Carrott* teaches against the claimed invention, the facts taken under Official Notice fail to teach the features lacking in *Carrott*, that the present invention does not provide a common, simple conversion of a manual activity into an automatic process.

Carrott relates to a “system and method of allocating commissions for sales made over the Internet and for dividing an otherwise indivisible Internet into defined geographic areas.” *Carrott*, Abstract. The Examiner admits in the March 1, 2007 Office Action (“Office Action”) that *Carrott* fails to disclose “the term selling agreement associated with a valid license” and “disclose a commission received for each sale completed.” Thus, Applicants respectfully submit that the record admits that *Carrott* does not teach or suggest “a licensing module configured to determine if a party associated with said sales transaction has a valid license to sell products associated with the sales transaction.”

Applicants respectfully submit that *Carrott* also fails to teach or suggest “a selling agreements module configured to generate a selling agreement.” Claim 1. *Carrott* discloses that “the invention verifies a sale through digital recording of an oral agreement.” *Carrott*, col. 4, lines 3-4. *Carrott* also discloses element 306 in Figure 3 for “confirming and accepting the terms of

agreement.” *Id.*, col. 10, lines 24-25. Applicants respectfully submit that “digital recording of an oral agreement” and “confirming and accepting the terms of agreement” do not teach or suggest “a selling agreements module configured to generate a selling agreement” as required by claim 1.

Applicants also respectfully submit that *Carrott* fails to teach or suggest “a commission module configured to determine commission amounts associated with a sales transaction based on said selling agreement” because *Carrott* fails to teach or suggest the “selling agreement” of Claim 1, which is ‘generated’ by the “selling agreements module”.

Applicants respectfully submit that *Carrott* also fails to teach or suggest “a payment module for determining payment associated with said sales transaction to said party in accordance with (i) a determination of said commission amounts determined by said commission module and (ii) a determination by said licensing module of whether said party has a valid license to sell the products associated with said sales transaction” because (1) *Carrott* fails to teach or suggest the particular commission module of claim 1 and (2) *Carrott* fails to teach or suggest the licensing module of claim 1.

Thus, *Carrott* alone fails to teach or suggest multiple elements of claim 1.

The Examiner submits that the missing elements are a matter of “common knowledge” and the invention “automate[s] a well known complex manual process.” Office Action, p. 3.

In *In re Venner*, the Court stated that “it is well settled that it is not ‘invention’ to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result.” *In re Venner*, 262 F.2d at 95, 120 USPQ at 194. In Venner, however, all the limitations in the claims, including the automatic means, were disclosed in the applied references. See *Venner*, 262 F.2d at 96, 120 USPQ at 195.

The Examiner has taken Official Notice that “selling agreements associated with a sales agent having a valid licenses has been common knowledge in the sales transaction art” and “document components, life insurance advances, payment rules, repayments, workflow events have been common knowledge in the sales transaction art.” Office Action, page 2. However, claim 1 does not simply claim what is included in *Carrott* and what is recognized as common knowledge.

In the present case, Applicants respectfully submit that the Examiner has failed to provide any reference that discloses the following elements of claim 1:

a selling agreements module configured to generate a selling agreement;

modules comprising a commission module configured to determine commission amounts associated with a sales transaction based on said selling agreement;

a licensing module configured to determine if a party associated with said sales transaction has a valid license to sell products associated with the sales transaction;

OR

a payment module for determining payment associated with said sales transaction to said party in accordance with (i) a determination of said commission amounts determined by said commission module and (ii) a determination by said licensing module of whether said party has a valid license to sell the products associated with said sales transaction. Claim 1.

The Federal Circuit has stated that the “reliance on *per se* rules of obviousness is legally incorrect.” *In re Ochiai*, 71 F.3d 1565, 1572, 37 USPQ2d 1127, 1133 (Fed. Cir. 1995).

Applicants respectfully submit that although it was well-known that sales agents are supposed to have licenses to conduct certain types of sales transactions, a system for managing relationships between a first party and a second party that includes the above cited elements is not obvious. The Background section of the present application states that “any plan for distribution channel management must consider the number of channels, the number of distributors, compensation complexity, regulatory and licensing requirements and the number and types of products that will be sold.” Present Application, Background, p. 3, lines 10-13. Thus, the present application recognizes that licensing requirements are known. The Background section of the present application also asserts that **“The distribution channel model within the financial services industry is very complex.”** *Id.*, lines 1-2. Furthermore, “Credential management is a

critical issue for many firms.” *Id.*, p. 8, line 1. “This need [to track accreditation] is made more acute by constantly changing governmental rules and regulations, as well as by different regulations imposed by the different jurisdictions in which a firm operates.” *Id.*, lines 8-11.

Although the necessity of licensed individuals in certain sales transaction contexts was well-known, Applicants respectfully submit, and have documented in the Present Application, that such recognition does not teach or suggest an enabling solution to a very complex problem. Thus, the present invention is not simply the application of common knowledge of one of ordinary skill in the art to automate a known manual process. As stated by the Present Application, “In conclusion, there is a need for a solution … where there is multiple channel selling, a fluid workforce, and regulatory constraints.” *Id.*, p. 10, lines 12-16. Thus, the prior existence of the alleged motivation “to incorporate common knowledge association means to track sales personal and their productivity” is directly controverted by the Background section.

As the Background section contends, to which the Examiner has cited no reference to contrary, manual processes have not provided a solution to the problems set forth in the Background section. Since there was no effective manual solution and the Examiner has failed to cite any references disclosing the missing elements in the present invention, Applicants respectfully submit that the mere allegation that the present invention requires no more than common knowledge and does not hindsight is legally incorrect. Again, as the Federal Circuit has stated that the “reliance on *per se* rules of obviousness is legally incorrect.” *In re Ochiai*, 71 F.3d 1565, 1572, 37 USPQ2d 1127, 1133 (Fed. Cir. 1995).

Teaching Away. Furthermore, Applicants respectfully submit that *Carrott* actually teaches away from the present invention. It is well-known that “teaching away” from the claimed invention is one important indicium of non-obviousness. *In re Dow Chemical Co.*, 837 F.2d 469, 473 USPQ2d 1529 (Fed. Cir. 1988). *Carrott* teaches “allocating the commissions **based solely** on the value of the goods delivered to each of the geographic distribution/representation areas.” *Carrott*, Abstract. See also, Carrott, col. 9, line 11 and col. 11, lines 47-49. Claim 1 recites, “said plurality of modules comprising a payment module for determining payment associated with said sales transaction to said party in accordance with (i) a determination of said commission amounts determined by said commission module and (ii) a determination by said licensing module of

whether said party has a valid license to sell the products associated with said sales transaction”

NOT “**based solely** on the value of the goods delivered to each of the geographic distribution/representation areas” as required by the teachings of *Carrott*. Thus, *Carrott* teaches away from the subject matter of claim 1. Since *Carrott* teaches away from the present invention of claim 1, Applicants respectfully submit that a *prima facie* case of obviousness has not been made.

Additionally, for similar reasons and in light of the prohibition of “reliance on *per se* rules of obviousness”, Applicants respectfully submit that *Carrott* in view of Official Notice fail to teach or suggest:

- **Claim 12.** “A system for managing relationships between a first party and a second party” that includes:
 - “a database source comprising a plurality of data objects representative of ... at least one license or appointment associated with said at least one distributing party” and
 - a distributor management engine configured to ... determine whether said at least one distributing party conforms with said at least one selling agreement and said at least one license or appointment is valid.
- **Claim 32.** “A system for managing relationships between a first party and a second party” that includes:
 - a database source comprising a plurality of data objects representative of said at least one distributor, at least one selling agreement and at least one license or appointment associated with said at least one distributor;
 - a “plurality of modules comprising, a licensing and appointment module configured to determine if said at least one license or appointment data object associated with said at least one distributor is in compliance with a set of industry regulations;”

- said plurality of modules comprising, a selling agreements module configured to enable said institution to define and create a selling agreement with said at least one distributor;

Accordingly, Applicants respectfully request withdrawal of the rejection of independent Claims 1, 12, and 32 and, for at least the same reasons, withdrawal of claims directly or indirectly dependent upon Claims 1, 12, or 32.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

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Respectfully submitted,

/Kent B. Chambers/

Kent B. Chambers
Attorney for Applicant(s)
Reg. No. 38,839